

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

ROSS PONDER AND SARAH PONDER,
INDIVIDUALLY, AND AS NEXT FRIEND
OF H.P., L.P., and R.P., MINORS,
Plaintiffs,

V.

AUSTIN MONTESSORI SCHOOL, INC.;
RONALD GRAE BAKER, INDIVIDUALLY;
and JINNY GONZALEZ, INDIVIDUALLY,
Defendants.

CIVIL ACTION NO. 1:25-cv-00615-ADA-SH

**DEFENDANTS' OPPOSED AMENDED MOTION TO STRIKE PLAINTIFF'S
UNTIMELY AND IMPROPER REPLY TO ITS MOTION TO REMAND (DKT. 15)**

COME NOW Defendants who file this, their Opposed Amended Motion to Strike Plaintiff's Untimely and Improper Reply to Its Motion to Remand (Dkt. 15), and in support thereof respectfully show the Court as follows:

STATEMENT OF FACTS

1. Defendants filed a Notice of Removal on April 24, 2025. Dkt. 1.
2. On May 5, 2025, Plaintiff filed a Motion to Remand. Dkt. 9.
3. Then on May 8, 2025, Defendants filed a Response in Opposition to Plaintiff's Motion to Remand. Dkt. 13.
4. Plaintiff's deadline to file a Reply, per Local Rule CV-7(e)(2), was May 15, 2025, yet Plaintiff did not file its untimely Reply to the Response to the Motion to Remand until May 27, 2025, and did so without seeking leave or conferring with counsel, in violation of the Local Rules of this Court. Dkt. 15.
5. Defendants respectfully move to strike Docket No. 15 from the Court's record because it is untimely under Local Rule CV-7(e)(2) as Plaintiff filed the Reply nearly two weeks

after the deadline without seeking leave of the Court or conferring with Defendants, as required. Additionally, the Reply improperly introduces new evidence, which is improper. For these reasons, the Reply should be stricken in its entirety.

ARGUMENT & AUTHORITIES

I. PLAINTIFF’S REPLY IS UNTIMELY, FILED WITHOUT LEAVE OF COURT, AND OTHERWISE IMPROPER

Plaintiff’s Reply was due on May 15, 2025, yet it was filed nearly two weeks after that deadline without any effort to confer with opposing counsel or obtain leave of court. Dkt. 15. Under this Court’s Local Rules, a reply must be filed within seven days of the nonmovant’s response. *See* Local Rules CV-7(B); (E)(2); *see also White v. Dolgencorp of Texas, Inc.*, No. SA-18-CV-00079-OLG, 2018 WL 4677907, at *3 (W.D. Tex. June 18, 2018), report and recommendation adopted, No. SA-18-CA-79-OG, 2018 WL 4701817 (W.D. Tex. July 10, 2018); *see also Rodriguez v. Midland Cnty. Hosp. Dist.*, No. 18-CV-173, 2020 WL 10739156, at *2 (W.D. Tex. Dec. 2, 2020) (striking untimely filing submitted without leave of court). Moreover, Plaintiff’s improperly includes new evidence attached to their reply. Replies are not mandatory, and Plaintiff’s failure to comply with procedural requirements warrants exclusion of the reply. Accordingly, the Court should strike or disregard the untimely filing, as it was submitted in violation of the Local Rules, without notice to Defendants, and without leave of the Court.

CONCLUSION

Plaintiff’s Reply in Support of the Motion to Remand should be stricken from the record as untimely and improper. In addition to being filed well past the deadline imposed by Local Rule CV-7, the Reply introduces new evidence without affording Defendants a meaningful opportunity to respond. This procedural impropriety not only violates the Court’s rules but also prejudices Defendants. Accordingly, the Reply must be disregarded or struck in its entirety.

Respectfully submitted,

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ADELSTEIN, LLP**

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF CONFERENCE

I attempted to confer with counsel for Plaintiff on June 3, 2025, regarding Defendants' Motion. Counsel for Plaintiff has not responded, therefore, Defendant is filing this motion as opposition.

/s/ Christopher Schulz

Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2025, the foregoing document was electronically filed with the Clerk of the Court, and a copy was served via the Court's electronic filing system on Plaintiffs' counsel of record:

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/s/ Christopher Schulz

Attorney for Defendants